

State Health Benefit Plan Procurement Policy

1. Introduction

1.1 Purpose

The mission of the Department of Community Health (DCH) Office of Procurement Services (OPS) is to obtain quality goods and services at the lowest possible costs using the highest ethical conduct. The purpose of this policy is to provide guidance for the purchase of health insurance services and products for the State Health Benefit Plan (SHBP). SHBP provides health insurance coverage to state employees, school system employees, retirees and their dependents and other groups legislatively mandated or included by contract where authorized by law. The procurement of administrative services for the Plan is exempt from the Department of Administrative Services (DOAS) State Purchasing requirements. Procurements exempt from State Purchasing Authority may include an array of health plans, pharmacy benefit management, and innovative health management product purchases.

1.2 Policy Statement

The SHBP Procurement Policy is designed to support an objective process for the evaluation and selection of service providers, including the quality of proposed services, and the reasonableness of fees, consistent with the SHBP policies stated herein, and with the DCH Ethics in Procurement Policy (<http://dch.georgia.gov/policies>).

1.3 Scope

This SHBP Procurement Policy is limited in applicability to exempt health insurance products/services purchased for delivery to the entire State Health Benefit Plan client population. In such circumstances, the Commissioner has determined it is required for the appropriate administration of the State Health Benefit Plan to elicit proposals in accordance with this policy. DCH may purchase exempt health insurance products/services directly, without following this Policy, for segments of the SHBP client population based on factors including but not limited to: geography, availability of services, and the best interests of the Plan. In such cases, the purchase must be approved by the Board of Community Health. Approval of the Board of Community Health may be established by advance notice to the Board and Board approval of contribution rates established for the product or service.

Other products/services procured by DCH for the SHBP are subject to State Purchasing rules provided in the Georgia Procurement Manual. (http://pur.doas.ga.gov/gpm/MyWebHelp/GPM_Main_File.htm).

2. Procurement Method – Request for Qualified Services

DCH will identify vendors for SHBP exempt services through a Request for Qualified Services (RFQS) procurement method – a two-phase solicitation process identifying vendors first based on qualifications to provide the level of service(s) and second on best business approach and price.

RFQS Phases are defined as follows:

2.1 Phase1 - Statement of Qualifications (SOQ)

The SOQ is a written statement of the minimum qualifications required to implement the SHBP desired business strategy. The SOQ may be inclusive, but not limited to: verification of appropriate licensure, attestation of qualifications, and other qualification based submission requirements. Entities that make a written response to the SOQ are “Offerors.” Offerors for which the SOQs do not establish their capacity to administer the required services will not move forward to Phase 2, and will receive written notification outlining their specific deficiencies.

2.2 Phase 2 - Request for Approach (RFA)

The RFA is a solicitation document used to request an Offeror’s approach for meeting SHBP identified goals, business needs and required services. Offerors meeting the qualification requirements identified in the SOQ will be invited to submit a response to the RFA, which will include a request for detailed information, such as an Offeror’s technical approach, implementation plan and cost methodologies. The evaluation of the RFA will encompass technical aspects of approaches inclusive of the aspects of the desired business strategy, weighted on areas of priority to the State. Review and evaluation will be inclusive of professional actuarial review, site visits and/or oral presentations (if conducted), and other requirements as determined necessary to determine the best approach for the State and its members. Efficient management of this process necessitates DCH’s limit of review only to those Offerors qualified at Phase 1.

3. Legal Authorization

The procurement of health insurance for state employees is exempt from the DOAS State Purchasing Act pursuant to Georgia Code 50-5-58, and Chapter 1: Section 1.2.1.2 of the Georgia Procurement Manual. OPS will enforce the policies and procedures approved by the Commissioner of DCH regarding the procurement of all goods and services and will follow guidelines described herein for SHBP procurements, which are developed pursuant to O.C.G.A. §31-2-1, 45-18-6, 20-2-884, 20-2-914, and Regulations 111-4-1-.02(2) and 111-4-1-02(2)(d).

4. Method of Communication

OPS will at a minimum utilize the DCH Web site to post all documentation associated with the SHBP RFQS.

5. Restriction on Communication with Vendors

From the issue date of the RFQS until a contractor is selected and the selection is announced, Offerors are not allowed to communicate for any reason with any DCH staff or Board member except through the Issuing Officer named within the solicitation, except during the Offeror's conference (if conducted), or as provided by existing work agreement(s) as applicable. The DCH reserves the right to reject the proposal of any Offeror violating this provision.

Questions must be directed in writing to the Issuing Officer. No questions other than written will be accepted. No response other than written will be binding upon the State.

All questions must include the company name and the referenced section of the RFQS. Offeror questions and DCH responses will be posted to the DCH Web Site.

6. Addenda

The DCH Issuing Officer shall post an addendum to the DCH Web site to:

1. Make changes in the solicitation;
2. Correct defects or ambiguities;
3. Provide additional information or instructions; or
4. Extend the offer due date and time if the DCH Issuing Officer determines that an extension is in the best interest of the State.

It is the responsibility of the Offeror to check the DCH Web site regularly for updates regarding the solicitation. An addendum shall be signed by the Offeror and submitted with the Offeror's response.

7. Cancellation of Solicitation

Based on the best interest of the State, the DCH may cancel a solicitation at any time before award. The Issuing Officer shall notify Offerors of the cancellation in writing. A notice of the cancellation shall be posted to the DCH Web site.

DCH reserves the right to set aside submitted approaches and pursue other contingencies.

8. Statement of Qualifications (SOQ)

8.1 Development and Issuance of SOQ

The SOQ will be developed by a Requirements Team, as defined in the Ethics in Procurement Policy. DCH may consult subject matter experts when necessary, including, but not limited to consultants with expertise in selection of third party administrators for health benefit plans in developing the SOQ.

The SOQ will be posted on the DCH Web site for a period of no less than ten (10) calendar days for responses from interested parties. DCH reserves the

right to extend the timeline and will post all extension notices to the DCH Web site. The DCH will clearly identify the deadline and vendor response criteria and the format prescribed by OPS, if any.

8.2. Evaluation of SOQ

The OPS Issuing Officer will conduct an administrative review of the Offerors' responses to the DCH SOQ based on the published Pass/Fail criteria. The Issuing Officer may seek written clarification when an Offeror's response contains conflicting or ambiguous information. Written clarifications received from the Offeror will become part of the Offeror's response. DCH reserves the right in its sole discretion to waive any technicalities associated with the solicitation if it deems it is in the best interest of the State. Offerors for which the SOQs do not establish their capacity to administer the required services will not move forward to Phase 2, and will receive written notification outlining their specific deficiencies.

8.3 Notice of SOQ Results

Prior to the RFA release, written notice will be provided to Offerors not qualified in Phase 1.

Without exception, only those Offerors qualified in Phase 1 will be invited to present an approach in Phase 2.

9.0 Request for Approach

9.1 Solicitation Development: A Request for Approach (RFA) solicitation document will be developed by a Requirements Team, as defined in the Ethics in Procurement Policy. DCH may consult subject matter experts when necessary, including, but not limited to consultants with expertise in selection of third party administrators for health benefit plans in developing the RFA. The RFA solicitation will at a minimum include: a scope of work, specifications, description of services to be procured, schedules or timelines, data requirements, terms and conditions, general criteria used in evaluation procedure, contractual requirements, and instructions for submission of technical and cost proposals. Portions of the RFA solicitation document will contain confidential information and confidential data necessary for Offerors' preparation of a response. The DCH Issuing Officer shall require a signed Non-Disclosure Agreement from Offerors prior to the release of any confidential information and confidential data.

9.2 Invitation to Offerors: Upon receipt of a signed Non-Disclosure Agreement, the DCH Issuing Officer shall provide those Offerors qualified in Phase 1 – Statement of Qualifications - secure access to documents necessary for a response to the RFA. Such documents include the RFA solicitation document and a data set containing enrollment and claims information necessary for the

development of a response. Such documents may be made available at the same time or at different times.

9.3 Offeror's Response: An Offeror's response to the RFA shall comply with the instructions contained in the RFA.

- A. Responses detailing Offeror's approach shall include, but not be limited to the Offeror's technical approach, implementation plan, and cost structure.
- B. Offeror's response to the RFA must contain a **Certificate of Non-Collusion** which must be signed by an authorized representative of the Offeror. Such person shall include his or her title and, if requested, shall supply verification of authority to bind the company in contract. This certificate is required by law and failure to sign and submit it with the response to the Request for Approach may result in its rejection.

9.4 Evaluation of Approach

The responses to the RFA will be evaluated by an Evaluation Team, as defined in the Ethics in Procurement Policy. Each member of the Evaluation Committee will individually and independently score the Offerors based upon the technical evaluation of approach, site visit and/or oral presentation (if conducted), and other criteria as identified within the RFA.

The Evaluation Team may request that the Issuing Officer seek written clarification from Offeror(s) when an Offeror's response contains conflicting or ambiguous information. Written clarifications received from the Offeror become part of the Offeror's response. DCH reserves the right to reject any or all responses, to waive any irregularity or informality in an Offeror's response, and to accept or reject any item or combination of items, when to do so would be to the advantage of the State of Georgia. It is also within the right of DCH to reject responses **that do not contain all elements and information requested in the RFA, including exceptions to contract terms that do not meet the requirements for contract exceptions**. A response will be rejected if the response contains any defect or irregularity and such defect or irregularity constitutes a material deviation from the RFA requirements, which determination will be made by DCH on a case-by-case basis.

Following completion of independent evaluations by individual members, the Evaluation Team will meet to discuss the scored questions and validate each Offeror's technical proposal scores. Upon conclusion of the validation process, the Issuing Officer will combine technical and cost proposal scores to establish Offerors' rankings.

9.5 Contract Negotiation and Award

The highest ranked Offerors will be identified to enter into negotiations in succession until an agreement is reached with the Offeror that is identified to offer the best approach and best value to the State. In preparation for consideration for award, the proposed pricing, product lines, and underlying assumptions shall be evaluated by a financial subject matter expert (may include professional actuarial services) for reasonableness of obtaining desired results, consistency with established criteria, and to suggest opportunities for negotiation of proposed cost and contract terms. In preparation for consideration for award, contract exceptions identified by the Offeror shall be evaluated by a legal expert for reasonableness of obtaining desired results and consistency with established criteria. Proposed fees, the Offeror's proposed technical proposal, and other factors may be considered and amended during negotiations.

All agreed upon terms made between the DCH and the Offeror must be confirmed in writing. Only the written agreement will be obligatory upon the State.

9.6 Contract Exceptions and Period for Contract Negotiations

Offerors shall set forth all exceptions to the model contract attached to the RFA in the format required in the RFA. The period of contract negotiations will be a maximum of five (5) business days, unless otherwise determined at the sole discretion of the DCH.

9.7 Announcement of Award

The DCH may make a single award, multiple awards, or may elect not to award a contract. DCH will post a notice of award when there is an executed contract between DCH and an Offeror(s). The OPS will post the outcome of the solicitation to the DCH Web site, along with the basis for the decision(s). Notification will be provided to Offerors to whom an award offer is not made, in conjunction with award announcements.

9.8 Failure to Reach Agreement

If the DCH and an Offeror fail to reach mutual agreement within five (5) business days, the DCH shall reserve the right to enter into negotiations with the next highest ranked Offeror, based on the selection ranking. Therefore, if the DCH is unable to negotiate a satisfactory contract with the selected Offeror, the DCH shall suspend negotiations with that Offeror and proceed to negotiate with the next Offeror in the order of the selection ranking until a mutual agreement is established and DCH awards a contract, or terminates the solicitation process. The final form of the contract shall be developed by DCH.

9.9. Appeal of Contract Award

The DCH method of solicitation is not subject to protest as this is an exempt procurement. However, an Offeror may appeal the executed contract award consistent with the process described herein. The appeal must be submitted in writing to the Director of Procurement within seven (7) calendar days, excluding State holidays, of the award notice posting, and shall include the following information:

- Name, address, email, and telephone number of the Offeror;
- Signature of the Offeror or the Offeror's representative (if applicable);
- Detailed statement of the factual grounds of the appeal including copies of all relevant documents;
- Form of relief requested.

If, after consultation with General Counsel or his or her designee, the Director of Procurement determines that a contract award does not comply with applicable procurement statutes and regulations), or with the policies described herein, the Director shall develop and implement an appropriate remedy. This remedy may or may not include the proposed form of relief. When developing an appropriate remedy, the Director shall consider the information presented by the appealing Offeror, relevant records maintained during the procurement process, other information deemed appropriate by the Director in his or her sole discretion, and the following:

- the seriousness of the procurement deficiency;
- the degree of prejudice to other interested parties or to the integrity of the procurement system;
- the good faith of the parties;
- the extent to which performance has been completed by the contract awardee(s);
- costs of the proposed relief to the State;
- the urgency of the procurement; and
- the impact of the relief on DCH's mission. An appropriate remedy will ensure compliance with procurement statutes and regulations.

The decision from the Director of Procurement shall contain an explanation of the basis of the decision and a statement that the Offeror may request a review of the decision by the DCH Commissioner within three (3) calendar days, excluding State holidays, from receipt of the decision. The decision of the DCH Commissioner is final.

The successful awardee(s) will be notified, in writing, of a requested appeal. Implementation activities will continue during any period of appeal and such activities during any appeal phase will continue at awardee(s)' risk and the award may be repealed if a successful appeal results in a rescission of the award(s).

10.0 Lifespan of the Procurement

All procurements remain active for a period of no more than one hundred eighty (180) days of the deadline submission of the RFA. Should a selected contractor or subcontractor default or be otherwise determined incapable of rendering services, the DCH reserves the right to return to the procurement.

11.0 Public Records and Trade Secrets

Documents received by DCH are normally subject to the Open Records Act of Georgia (O.C.G.A. § 50-18-70 et. seq.) and open for public inspection. Per the Act, responses to requests for sealed proposals will be available for public inspection and copying at the time the final award of the contract is made. If a responsive Offeror claims that any portion of its material submitted to DCH with its Approach is a proprietary trade secret, the Offeror must clearly identify at the time of submission those portions of the proposal. Offerors are required to submit with their Approach an affidavit meeting the requirements of O.C.G.A. § 50-18-72 (a) (34) setting forth any and all trade secret claims. Any material submitted to DCH by a responsive Offeror which has not been clearly designated as a trade secret(s) and expressly referenced as such in the affidavit is subject to disclosure under the Open Records Act of Georgia. PLEASE NOTE: Even though information submitted may be marked as "confidential", "proprietary", or "trade secret," and may be expressly referenced as such in an affidavit, DCH will make its own determination as to whether the information is a trade secret that may be withheld in response to an open records request. If DCH determines that information referenced in the affidavit as trade secret must be released in response to an open records request, DCH will notify the Offeror in advance, so that the Offeror may seek legal protection of the information. DCH will release the information ten (10) days from the date of the notification if DCH is not served with an appropriate court order preventing disclosure.